

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

08-24-07
04:59 PM

Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive Framework and to
Examine the Integration of Greenhouse Gas Emissions
Standards into Procurement Policies

Rulemaking 06-04-009
(Filed April 13, 2006)

**COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) AND
SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) ON PROPOSED
INTERIM OPINION ON REPORTING AND TRACKING OF GREENHOUSE
GAS EMISSIONS IN THE ELECTRICITY SECTOR**

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**I.
INTRODUCTION AND BACKGROUND**

Pursuant to Rule 14.3 and 14.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (the "Commission"), San Diego Gas & Electric ("SDG&E") and Southern California Gas Company ("SoCalGas") hereby submit these comments concerning the Proposed Decision of President Peevey entitled *Interim Opinion On Reporting And Tracking Of Greenhouse Gas Emissions In The Electricity Sector* (the "PD"), issued on August 15, 2007.

The PD adopts the interim reporting and tracking requirements applicable to retail providers and marketers in the electricity sector. This proposed reporting and tracking protocol ("Protocol") would apply to all retail electricity providers in California, including investor-owned utilities ("IOUs"), multi-jurisdictional utilities, electric cooperatives, publicly-owned utilities ("POUs"), energy service providers ("ESPs"), and community choice aggregators ("CCAs"). The Commission is to be commended for its dedication to addressing the myriad issues related to implementation of the Protocol.

As explained more fully below, SDG&E and SoCalGas are proposing specific changes in order to address certain factual, legal or technical errors in the PD, in accordance with Rule 14.3. Specifically, SDG&E and SoCalGas propose that the PD be revised to track the intent of the Legislature that GHG emissions be linked with the electricity generation profile of the source procured by California retail providers. In addition, SDG&E and SoCalGas recommend that the PD be revised to clarify some inconsistencies that have a direct bearing on the accuracy of the Commission's conclusion.

II. THE PD SHOULD BE REVISED TO REFLECT THE INTENT OF THE LEGISLATURE CONCERNING REPORTING AND TRACKING CRITERIA UNDER AB 32

SDG&E and SoCalGas submit that the PD misconstrues AB 32 with regard to the reporting of statewide greenhouse gas emissions. AB 32 directs the California Air Resources Board ("CARB"), the agency charged under AB 32 with developing GHG emission reduction regulations, "to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions," whereby the term "statewide greenhouse gas emissions" is further defined by the following parameters:

"the total annual emissions of greenhouse gases in the state, including all emissions of greenhouse gases from the generation of electricity delivered to and consumed in California, accounting for transmission and distribution line losses, whether the electricity is generated in state or imported."^{1/}

This language in AB 32 specifically ties "statewide greenhouse gas emissions" to the GHG emissions of specific generation facilities that serve California. By stating "all emissions of greenhouse gases from generation of electricity delivered to and consumed

^{1/} See, Assembly Bill (AB) 32, § 38510 (Stats. 2006, Ch. 488).

in California,” AB 32 unmistakably links emissions to the electricity generation profile of the source procured by California retail providers. In contrast, the PD’s reporting requirements under Finding of Fact Number 8, at page 44, would attempt to dispose of this fundamental link between emissions and specific power plants based on a speculative and unsupported premise that “to ensure that only real GHG reductions are calculated...ARB may need to attribute emissions to purchases of power by California retail providers that are different than the GHG emissions that occur from the source specified in the contract.” Such assignment of an emissions level which is different than the electricity source’s actual emissions is therefore in conflict with the clear goals of AB 32 and the legislative directive that the reporting of GHG emissions be linked to the generation delivered to and consumed by California. The PD should be revised to report the actual GHG emissions that occur from a known generation source providing power to a retail provider.

III. DE-LINKING EMISSIONS FROM THE ENERGY SOURCE IN CONTRACTS MAKES REPORTING UNNECESSARILY COMPLICATED

Using a level of emissions different from the actual emissions of specified generation sources as proposed in the PD would make retail provider reporting inaccurate and unnecessarily complicated. For example, the PD states at page 19, that sales would be assigned a default region emissions value “unless the retail provider demonstrates that the power from the power plant could not be delivered to the retail provider at the time it was sold, or was not needed.” On an hourly basis, the retail provider must show either 1) that available energy from its other owned power plants met its entire need and the plant was the “marginal plant” (where marginal is undefined as to whether it includes a GHG

value), or 2) that the power could not be delivered. (PD, p.34). This hourly analysis would be a burdensome and daunting task to document for each retail provider-owned power plant sale of electricity into the market.^{2/}

In addition, for each power purchase, the retail provider would not only be required to determine the specified source, but also the date of beginning operation in order to recognize whether to apply the region default value (in operation before 1/1/2008) or the specific plant's emission rate (after 1/1/2008). Additional analysis would also be necessary to identify if it was a specified source purchase (default region emissions) or a purchase from an approved asset-owning or asset-controlling entity (approved seller-specific average). Most of these problems would be resolved if the PD is revised to report the actual GHG emissions that occur from specified sources.

IV. DE-LINKING EMISSIONS FROM THE ENERGY SOURCE IN CONTRACTS HAS ADVERSE AND UNINTENDED SUPPLEMENTARY CONSEQUENCES

An added consequence of not using the actual emissions of specified generation sources is that a better tracking system has no value. The many existing resources without long-term contracts will receive a default value regardless of the plant's specific emissions rate. If actual emissions of specified sources are not utilized, it is clear that there is little value to developing better tracking of actual emissions.

Another undesirable consequence of not using the actual emissions from specified existing power plants is that annual default emission factor updates have limited value. The default emission factor calculation starts "by first removing from the calculation all

2/ It appears this requirement may apply to many intermediate power plants since off-peak and on-peak loads are highly different.

power purchased from specified sources (whether purchased by California entities or by other entities in other states). (PD, p. 26). If the actual emissions of specified resources are not used, it is more difficult to update the default emissions factor.

**V.
EMISSIONS FROM EXISTING SPECIFIED SOURCES SHOULD USE
CONSISTENT METHODS OF CALCULATION**

The PD has a number of inconsistencies as to how the emissions from existing resources are calculated. As an example, if a retail provider enters in to a new power purchase agreement from a specific source that is a renewal of an existing agreement, the actual emissions from that source would be reported. Based on section V.B.2.a, if a retail provider enters into a new purchase power agreement (“PPA”) with that same existing source that is not a renewal of an existing contract, it would be assigned the default emissions rate instead of the actual plant emissions rate (PD, p. 21). In contrast, if the retail provider purchased the exact same plant, it would use the actual emissions rate based on it being a fully-owned asset of the retail provider (PD, p. 20). Utilization of multiple emissions rates for the same resource which subjectively depends on the form of the contract or ownership lacks any consistency with the Commission’s underlying goal of accurate reporting. The amount of GHG reported for the state should not change simply because of a change in a contractual relationship. In fact, the PD’s approach inadvertently creates a pooling tactic which would facilitate gaming strategies by market participants and that may seriously undermine the California’s desire to create a robust cap and trade system.

This contradiction is also true of the retail provider wholesale sales. Where sales from a retail provider-owned power plant may have transactions under certain

circumstances be assigned the actual emissions rate and under other circumstances be assigned the default emissions rate (when more than 10% of plant output are sales and without adequate showing). Further, if the retail provider were to label the power as unspecified power from its system, the emissions value is the value for the mix of resources providing the “adjusted all-in” value.

VI. THE INTERIM OPINION SHOULD BE CLARIFIED IN CERTAIN PLACES TO REMOVE INCONSISTENCIES

SDG&E and SoCalGas suggest that further clarification is essential to overcome some inconsistencies that have a direct bearing on the accuracy of the Commission’s conclusions. First, clarification is necessary for the definition of the treatment of certain resources. In particular, how are DWR contracts that are currently assigned to the IOU’s for dispatch regarded for reporting since the IOUs do not have a PPA with a resource? Is DWR generation to be considered unspecified power or specified power if it is from a specific plant? It should be noted that upon expiration of the DWR contracts, these resources will become unspecified power under the PD. Thus creating either an increase or decrease in reported GHG even if the same plants operate in the same manner. Second, the PD is silent on value of emissions of Combined Heat and Power facilities. While the emissions from these type facilities are being determined by the CARB, they are not referenced in the PD and no protocols in Attachment A specifically address the issue.

Another area which beckons an added element of detail is the definition of “null power.” In the PD at page 21, null power is described as a renewable resource for which the “renewable and environmental attributes have been sold to another party.” However,

it is defined differently in Attachment A as electricity from a renewable resource where “a renewable energy certificate has been unbundled and sold separately.” This latter definition causes some confusion since it could be interpreted as addressing only the “renewable” component of the resource’s attributes and not the “environmental” component.

While the PD addresses the value to assign to renewable energy without renewable and environmental aspects, it does not explicitly state how renewable energy with its renewable and environmental aspects intact is valued. Without clear indication that renewables should have a zero emissions level, it might be interpreted that existing renewables without a long-term PPA would be assigned the default region emissions factor under section V.B.2.a. If this were the case, those renewables would have the same emissions rate whether or not the renewable and environmental aspects were sold. This perverse outcome would seem undesirable.

Another aspect of the renewables issue that is not addressed in the PD is how to count Renewable Energy Certificates (“RECs”). If RECs purchased by a retail provider contain the environmental attribute without the power, how should the GHG emissions of the existing power procured be adjusted? The PD should clarify how the adjustment would be made. One alternative would allow the REC to reduce emissions of unspecified power. By reducing the measured emissions by an amount equal to the default region emissions factor, it would mirror the PD’s treatment of null power.

Another area in need of clarification is the treatment of transmission losses. For both specified and unspecified resources, retail providers would report the “amount of power received” and “associated transmission losses.” For power generated in California

and out-of-state specified purchases, the reported generation or power purchased would already include transmission losses. For unspecified power generated out of state, the reported purchases would be the amount of power delivered to California and would not incorporate transmission losses. Those purchase amounts should be increased by adding an expected transmission loss amount related to transmission from the plant to the border. The PD should clarify this calculation so as to avoid double counting of GHG emissions.

Finally, SDG&E and SoCalGas agree with the PD's conclusion that non-public information provided to the CARB in compliance with to the Protocol should be subject to the confidentiality provisions ultimately adopted by the CARB (PD, p. 40). However, the PD should be amended to clarify that the confidentiality framework established by the Commission shall apply to any of the same information provided to the Commission.

VII. DEFAULT EMISSIONS FACTORS PRODUCE CHANGES THAT ARE NEITHER ACCURATE NOR "REAL"

The PD expresses grave concern that GHG emissions reduction be "real." But by their construction, default emissions rates lead to GHG emissions changes that are neither accurate nor "real" based on the provisions of the PD. For example, a combined cycle plant with a PPA is assigned its actual emissions for the remainder of the contract, then upon expiration its GHG content would increase to the default region emissions factor unless its contract is renewed. In this case, the emissions rate could increase from 850 lbs. /MWh to a default value of 719 to 1,075 lbs. /MWh (depending on location) with no change in the operation of the resource. The same would be true of low-emitting gas-fired QFs with expiring contracts. If their contracts are not renewed, their emissions rate would increase to the default rate. The PD should be revised to report the actual GHG

emissions that occur from a generation source for all specified sources providing power to a retail provider.

**VIII.
THE REPORTING PROTOCOLS AND THE 1990 ELECTRIC SECTOR
INVENTORY SHOULD USE CONSISTENT METHODS**

SDG&E and SoCalGas recommend the GHG Reporting Protocols should be consistent with the 1990 GHG inventory calculation where assumptions and approximations are being used. Due to the extensive use of the default emission factor for in-state resources, the PD inherently lacks consistency with the ARB 1990 GHG Inventory. In using the 1990 GHG Inventory for comparison purposes, the sum of retail provider reported emissions related to California generated power will exceed the GHG Inventory, which is based on actual emissions from California generation, because of use of the California default emission factor. Some type of adjustment is required so as to not leave the inaccurate perception that emissions may have increased simply because a number of PPAs expired and were assigned the default rate.

Another consistency issue is the extent to which the proposed default emission factors are consistent with other Western States so that there would be no arbitrage opportunities for generation resources and there would be an easier transition to a multi-state effort toward GHG reduction. While this issue cannot be resolved within the time frame required by CARB for 2008 implementation, the protocol could address future changes to the default factors with anticipated multi-state collaboration.

IX. CONCLUSION

For the reasons set forth above, if an interim opinion on reporting and tracking is ultimately adopted, SDG&E and SoCalGas urge the Commission to exercise its jurisdiction to amend the PD and Protocol in accordance with the aforementioned comments and to incorporate the modifications as proposed herein.

Respectfully submitted this 24th day of August, 2007.

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ATTACHMENT

Proposed Findings of Fact

1. Some purchases of electricity cannot be traced to a specific generation source.
2. To attribute emissions to California retail providers for purchases of electricity that cannot be traced to a specific generation source, ARB will need to establish emission factors.
3. The Joint Staff's methodology to calculate emission factors for electricity purchased from unspecified sources, as modified by this order, is reasonable at this point in time.
4. Emission factors for electricity purchased from unspecified sources should reflect the mix of power plants in the region from which the electricity is purchased or the mix of power plants for an asset-owning or asset-controlling entity from which the electricity is purchased.
5. The three default emission factors shown in Table 1 for electricity purchased in 2008 from unspecified sources in the Northwest, Southwest and California are reasonable.
6. The default emission factor shown in Table 1 for electricity anonymously purchased in 2008 through either the CAISO's real-time market or the Integrated Forward Market is reasonable.
7. The Protocol in Attachment A is a reasonable rule for reporting and tracking GHG emissions from the electricity sector.
8. ~~In some situations, to ensure that only real GHG reductions are calculated for power transactions reported by California retail providers, ARB may need to attribute emissions to purchases of power by California retail providers that are different than the GHG emissions that occur from the source specified in the contract.~~

Proposed Conclusions of Law

1. Under AB 32, ARB is required to report the actual emissions of power purchased by retail providers from specified sources, including transmission and distribution losses.

~~Under AB 32, ARB has the authority to adopt conditions that would prevent the attribution to retail providers of GHG emission reductions that are not real.~~

2. AB 32 governs statewide GHG emissions, including electricity consumed in California (including imports) and in-state generation that is exported out of California.

INTERIM ORDER

Therefore, **IT IS ORDERED** that the California Public Utilities Commission recommends that the California Air Resources Board adopt the Proposed Electricity Sector Greenhouse Gas Reporting and Tracking Protocol contained in Attachment A to this order.

This order is effective today.

Dated _____, at San Francisco, California.

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list (Attachment C).

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated August 24, 2007, at San Francisco, California.

/s/ Deanna M. Gutierrez
Deanna M. Gutierrez

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) ON PROPOSED INTERIM OPINION ON REPORTING AND TRACKING OF GREENHOUSE GAS EMISSIONS IN THE ELECTRICITY SECTOR** on each party named in the official service list for proceeding R.06-04-009 by electronic service, and by U.S. Mail to those parties who have not provided an electronic address.

Copies were also sent via Federal Express to Commissioner Michael R. Peevey and the Assigned Administrative Law Judge's Charlotte TerKeurst, Jonathan Lakritz and Meg Gottstein.

Dated at San Diego, California, this 24th day of August, 2007.

/s/ Deanna M. Gutierrez
Deanna M. Gutierrez

CALIFORNIA PUBLIC UTILITIES COMMISSION

Service Lists

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